

SUSAN P. GANTMAN,²)
)
 Intervenor.)

O R D E R

NOW, this 2nd day of January, 2004, upon consideration of the Motion for Temporary Restraining Order filed by plaintiffs on December 30, 2003; upon consideration of the Verified Class Action Complaint filed December 30, 2003; and after oral argument held before the undersigned on December 31, 2003;

IT IS ORDERED that the motion is denied.³

BY THE COURT:

James Knoll Gardner
United States District Judge

² By separate order placed upon the record during oral argument the undersigned granted Susan P. Gantman's motion to intervene in the within civil action for the limited purpose of participating in oral argument of the Motion for Temporary Restraining Order.

³ Introduction
Plaintiffs request the court to issue a temporary restraining order which would enjoin defendants Secretary of the Commonwealth Pedro A. Cortés from certifying the results of the November 4, 2003 election for the office of Judge of the Superior Court of Pennsylvania. Plaintiffs claim that the Commonwealth of Pennsylvania denied proposed class members their rights under the ADA and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution in connection with the election.

More specifically, plaintiffs claim that the Commonwealth failed to implement its own policy of providing Alternative Ballots to handicapped persons or persons age 65 or older who were allegedly unable to vote because their assigned polling stations were inaccessible to them. Plaintiffs assert that many of these persons were issued Absentee Ballots rather than Alternative Ballots. Plaintiffs seek to compel the county boards of elections to determine which Absentee Ballots should be considered Alternative Ballots and then include these votes in the election tally. Because plaintiffs fail to meet their burden of establishing a